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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 JOSEPH R. FLORES,  
11 Plaintiff,

12 v.

13 JAN MORGEN, *et al.*,  
14 Defendants.

Case No. C08-5621 RJB/KLS

ORDER DIRECTING RESPONSE  
AND RENOTING MOTION TO  
AMEND COMPLAINT

15 Before the Court is Plaintiff's motion to reconsider amended complaint. Dkt. # 51. Plaintiff  
16 previously filed a motion to amend his complaint. Dkt. # 25. That motion was denied because  
17 Plaintiff failed to submit a proposed amended complaint. Dkt. # 45. Plaintiff is now providing the  
18 Court with his proposed amended complaint (Dkt. # 51-2), and states that his failure to do so was  
19 based, in part, on his ill health and lack of resources. Dkt. # 51, p. 1. Defendants object because  
20 the amended complaint was not before the Court when the previous ruling was made and therefore,  
21 the Plaintiff cannot show that the Court erred in denying the motion to amend for Plaintiff's failure  
22 to attach an amended complaint. Dkt. # 52, p. 2.

23 Although Plaintiff chose to title his motion as a "motion to reconsider," the Court views the  
24 motion as Plaintiff's attempt to simply comply with the Court's directive that he submit a proposed  
25 amended complaint so that the Defendants and the Court can see what it is the Plaintiff wants to

1 plead and so that the court may make a final determination as to whether the pleading should be  
2 allowed. The proposed amendment is now before Defendants and the Court.

3 Accordingly, the Court **ORDERS** as follows:

- 4 (1) Plaintiff's motion to reconsider (Dkt. # 51) is **GRANTED**;
- 5 (2) Defendants shall file a response to Plaintiff's motion to amend (Dkt. # 25) with  
6 proposed amended complaint submitted at Dkt. # 51-2, on or before **May 22, 2009**.
- 7 (3) Defendants' motion to dismiss (Dkt. # 36) shall be **re-noted for May 29, 2009**.

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9 DATED this 4th day of May, 2009.

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13 Karen L. Strombom  
14 United States Magistrate Judge  
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